

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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DAVID ALLEN HICKS,

Case No. 2:25-cv-00972-MMD-NJK

Petitioner,

ORDER

v.

JEREMY BEAN, *et al.*,

Respondents.

Before the Court is Petitioner David Allen Hicks's motion for leave to file a second-amended petition. (ECF No. 14 ("Motion").) Respondents have filed a non-opposition to the Motion. (ECF No. 15.)

In his Motion, Hicks states that he filed his first-amended petition as a protective petition to ensure that all his claims would be preserved as timely filed. (ECF No. 14.) Hicks requests leave to file a second-amended petition so that he has a reasonable opportunity to prepare an amended petition that fully reflects counsel's considered judgment. (*Id.*) Hicks further requests the Court waive the requirement of LR 15-1(a), which requires a party to attach the proposed amended pleading to a motion seeking leave of court to amend, explaining that the rule is ill-suited for this situation. (*Id.*)

LR 15-1(a) states that a proposed amended pleading must be submitted with the motion for leave to amend unless otherwise permitted by the Court. When the Court appoints counsel to represent habeas corpus petitioners, as a matter of course, it gives counsel leave to file an amended petition. The only difference here is that counsel is trying to file a petition before the one-year deadline to minimize the probability that grounds for relief would not relate back to a timely petition. The Court sees no reason to depart from its usual practice in habeas corpus cases of allowing amended petitions under these

1 circumstances. Moreover, under Federal Rule of Civil Procedure 15(a)(2), a party may
2 amend a pleading with the Court's leave, and "[t]he court should freely give leave when
3 justice so requires."

4 The Court finds that good cause exists for Hicks to file a second-amended petition,
5 so the Court grants the Motion and waives the LR 15-1(a) requirement. This Order does
6 not, however, affect the operation of the statute of limitations, and the Court does not
7 mean to convey any opinion about when the limitations period expires (or expired).

8 It is therefore ordered that the Motion (ECF No. 14) is granted. Hicks has up to and
9 including November 26, 2025 to file a second-amended petition. In all other respects, the
10 Scheduling Order (ECF No. 11) remains in effect.

11 DATED THIS 9th Day of September 2025.

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15 MIRANDA M. DU
16 UNITED STATES DISTRICT JUDGE
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